1	BEFORE THE FEDERAL ELECTION COMMISSION	
2	In the Matter of	)
4 5 6 7 8 9	MUR 6318 EARL HENRY SHOLLEY FOR CONGRESS AND RONALD A. GENGO, AS TREASURER EARL HENRY SHOLLEY	) CASE CLOSURE UNDER THE )ENFORCEMENT PRIORITY )SYSTEM )
10 11	GENERAL COUNSEL'S REPORT	
12	Under the Enforcement Priority System, matters that are low-rated	
13		
14	are forwarded to the Commission with a recommendation for dismissal. The	
15	Commission has determined that pursuing low-rated matters, compared to other higher-	
16	rated matters on the Enforcement docket, warrants the exercise of its prosecutorial	
17	discretion to dismiss these cases. The Office of General Counsel scored MUR 6318 as a	
18	low-rated matter.	
19	In this matter, the complainant, Joel Van Brunt, alleges that the financial disclosure	
20	reports filed by Earl Henry Sholley for Congress and Ronald A. Gengo, in his official	
21	capacity as treasurer ("the Committee"), during the 2007-2008 and 2009-2010 election	
22	cycles, failed to itemize expenditures exceeding \$200, as required by 2 U.S.C. §§ 434(b)(5)	
23	and (6). In addition, the complainant makes the following assertions: 1) based on	
24	"observation" and "anecdotal evidence," candidate Earl Henry Sholley appears to have	
25	"very limited campaign expenses," such as "virtually no campaign staff" and little, if any,	
26	campaign material; 2) his Committee appears to ha	ave raised approximately \$42,000 and

Candidate Earl Henry Sholley is seeking to represent Massachusetts' Fourth Congressional District.

Case Closure Under EPS – MUR 6318 General Counsel's Report Page 2

- expended approximately \$39,000 during the 2009-2010 election cycle thus far; and 3) the
- 2 Financial Disclosure Statement allegedly filed by Mr. Sholley with the House of
- 3 Representatives covering January 1, 2009 through July 31, 2009, discloses that Mr. Sholley
- 4 earned only \$3,000 in income during that time period. Based on the above, the complainant
- 5 surmises that it is possible that Mr. Sholley has been using campaign funds for personal
- 6 purposes in violation of 2 U.S.C. § 439a(b).

In response, Mr. Sholley, who replied on behalf of his Committee as well as

himself, denies having used any campaign funds for prohibited personal uses, and states

that, to the contrary, he has loaned his campaign nearly \$20,000.3 As for his income,

Mr. Sholley asserts that, as a widower, he receives Social Security survivor benefits and

that he also earns income as a horticultural consultant and as a political consultant. In

addition, Mr. Sholley states that during the past two years he has obtained additional funds

- by liquidating some of his stock holdings and Individual Retirement Accounts. Finally,
- 14 with respect to the alleged reporting violations regarding the Committee's expenditures,
- 15 Mr. Sholley asserts that the actual total amounts expended were reported properly
- 16 (ostensibly on the Detailed Summary Pages of the Committee's reports). However, with
- 17 respect to the allogation that the Committee failed to itemize disbursements exceeding
- 18 \$200, Mr. Sholley acknowledges that, due to a "misunderstanding," the Committee "was
- not in full compliance" with 2 U.S.C. §§ 434(b)(5) and (6). Mr. Sholley states that the

The Committee's 2010 April Quarterly Report, the last report filed prior to the complaint, discloses that, during the 2009-2010 election cycle, the Committee raised a total of \$51,168.08 and expended a total of \$49,464.60.

The Committee's 2010 Pre-Primary Report discloses that Mr. Sholley has loaned his campaign a total of \$19,400 during the 2009-2010 election cycle.

Case Closure Under EPS – MUR 6318 General Counsel's Report Page 3

- 1 Committee's treasurer is in the process of amending previously-filed reports to include the
- 2 requisite itemization information for expenditures exceeding \$200.4
- Based on the complaint and response, it does not appear that Mr. Sholley used his
- 4 Committee's funds for prohibited personal uses, as set forth in 2 U.S.C. § 439a(b).
- 5 However, while the public record reflects that the Committee reported its expenditure totals
- on lines 17 through 22 of the Detailed Summary Pages of its financial disclosure reports, it
- 7 appears that the Committee failed to itemize certain expenditures exceeding \$200, as
- 8 required by 2 U.S.C. §§ 434(b)(5) and (6). According to Mr. Sholley, the Committee will
- 9 amend its reports to include itemization of expenditures, where appropriate.
- Therefore, in light of the Committee's proposed remedial action, its recently-filed
- 11 reports and its original disclosure of its total expenditures, and in furtherance of the
- 12 Commission's priorities and resources, relative to other matters pending on the
- 13 Enforcement docket, the Office of General Counsel believes that the Commission should
- 14 exercise its prosecutorial discretion and dismiss the matter. See Heckler v. Chaney,
- 15 470 U.S. 821 (1985). Additionally, this Office intends on reminding intends on reminding
- 16 Earl Henry Sholley for Congress and Ronald A. Gengo, in his official capacity as treasurer,
- of the requirement to itemize expenditures exceeding \$200, pursuant to 2 U.S.C.
- 18 §§ 434(b)(5) and (6).

19

## RECOMMENDATIONS

- The Office of General Counsel recommends that the Commission dismiss
- 21 MUR 6318, close the file, and approve the appropriate letters. Additionally, this Office
- 22 intends on reminding Earl Henry Sholley for Congress and Ronald A. Gengo, in his official

<sup>&</sup>lt;sup>4</sup> The Committee's 2010 July Quarterly and 2010 Pre-Primary Reports, filed subsequent to the complaint, include Schedule Bs listing itemized expenditures.

Case Closure Under EPS – MUR 6318 General Counsel's Report Page 4

capacity as treasurer, of the requirement to itemize expenditures exceeding \$200, pursuant to 2 U.S.C. §§ 434(b)(5) and (6). Christopher Hughey Acting General Counsel 6 8 BY: Gregory R. Baker Special Counsel Complaints Examination & Legal Administration Jeff S. Jordan Supervisory Attorney Complaints Examination & Legal Administration Attorney **Complaints Examination** 

& Legal Administration